

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to the report. Whereas here, no timely objection was filed, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. FED. R. CIV. P. 72 advisory committee's notes (citation omitted). In fact, the U.S. Supreme Court has held that, "it does not appear that Congress intended to require a district court review of a magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

II. ANALYSIS

A review of the Commissioner's final decision by a magistrate judge is limited to determining whether it is supported by substantial evidence and was made pursuant to proper legal standards. *Ealy v. Comm'r of Soc. Sec.*, 594 F.3d 504, 512 (6th Cir. 2010). The court does not review the evidence *de novo*, make credibility determinations, or weigh the evidence. Plaintiff objects to Commissioner's final decision denying Plaintiff CIB and SSI on the grounds that the ALJ: (1) violated the treating physician rule and (2) did not consider all of the medical evidence.

The treating physician rule states that, "an ALJ must give the opinion of a treating source controlling weight if he finds the opinion well supported by medically acceptable clinical and laboratory diagnostic techniques and not inconsistent with the other substantial evidence in the case record." *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 544 (6th Cir. 2004); 20 C.F.R. §404.1527(c)(2). If not giving the treating source opinion controlling weight, the ALJ must give "good reasons" that are sufficiently specific to make clear to any subsequent reviewers the weight given to the treating physician's opinion and reason for that weight. *Wilson*, 379 F.3d at 544. Magistrate Judge Burke found Dr. Urcuyo was not a treating physician, therefore the treating physician rule is not applicable. Magistrate Judge Burke also found that although Dr. Needlman was a treating physician, his opinion was inconsistent with other substantial evidence in the record and therefore not entitled to controlling weight.

Plaintiff also contends that not all the medical evidence was considered. However, "the better an explanation a source provides for a medical opinion, the more weight we will give the

medical opinion.” 20 C.F.R. § 404.1527(c)(3). Thus, the ALJ did not err in discounting examiner’s opinions that contained checkbox forms and it was appropriate for the ALJ to give little weight to opinions that were formed on the basis of Plaintiff’s father’s reports rather than objective exam findings.

III. CONCLUSION

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge Burke (ECF #14) is ADOPTED. The Commissioner’s decision denying Plaintiff CIB and SSI is AFFIRMED.

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: July 23, 2018